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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re D.M. et al., Persons Coming Under  
the Juvenile Court Law.

B239731  
(Los Angeles County  
Super. Ct. No. CK76884)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

L.M.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Donna Levin, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Reversed with directions.

Maureen L. Kearney, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel and Jacklyn K. Louie, Principal Deputy County Counsel for Plaintiff and Respondent.

L.M., the mother of the two children, appeals from a Welfare and Institutions Code section 366.26 parental rights termination order. The mother contends the parental rights termination order must be reversed because of noncompliance with the Indian Child Welfare Act and related California provisions. The parties have stipulated to a limited reversal of the parental rights termination order to allow compliance with the Indian Child Welfare Act and related California. We accept the parties' stipulation. The parties agree there was noncompliance with the Indian Child Welfare Act and related California provisions. We concur in their assessment in this regard. Further, the parties agree the parental rights termination order must be reversed and remanded to permit proof of compliance with the Indian Child Welfare Act and related California provisions.

Our ability to accept a stipulated reversal is controlled by our prior decision in the case of *In re Rashad H.* (2000) 78 Cal.App.4th 376, 379-382. The present case involves reversible error; the failure to present substantial evidence of compliance with the Indian Child Welfare Act and its related California provisions. (*In re Marinna J.* (2001) 90 Cal.App.4th 731, 736-740; *In re Desiree F.* (2000) 83 Cal.App.4th 460, 471-472.) Because the parental rights termination order would be reversed under any circumstances, a stipulated reversal advances those interests identified in Code of Civil Procedure section 128, subdivision (a)(8) for the reasons we explained in the case of *In re Rashad H.*, *supra*, 78 Cal.App.4th at pages 379-382. (See *Union Bank of California v. Braille Inst. of America, Inc.* (2001) 92 Cal.App.4th 1324, 1329-1330.) If proper notice is provided and no tribe asserts that the children are of Indian descent, the parental rights termination order is to be reinstated. If a tribe asserts that the child is of Indian descent, the juvenile court is to proceed in compliance with the Indian Child Welfare Act and related California provisions.

The Welfare and Institutions Code section 366.26 order is reversed and the cause is remanded for compliance with the federal Indian Child Welfare Act requirements and related state provisions.

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TURNER, P. J.

We concur:

MOSK, J.

KRIEGLER, J.